



OFFICE OF THE
BOARD OF APPEALS
TOWN OF DUNSTABLE
TOWN HALL
511 MAIN STREET
DUNSTABLE, MA 01827-1313

Approved
May 1, 2008

Russell Hearing Minutes
September 20, 2007

Members Present: Wesley Goss, Chairperson
Joshua West, Clerk
Judy Thompson, Member
Alice Ekstrom, Member
Al Horton, Associate Member
Lisa O'Connell, Recording Secretary and Associate Member

Petitioners Present: Rose and James Russell

Abutters Present: Peter and Kathy Dumont, 108 Thorndike Street, Dunstable
Leonard Dumont, 104 Thorndike Street, Dunstable
Michael Udot, 120 Thorndike Street, Dunstable

Others Present: Dana Barnes, Dunstable Building Inspector
Kevin Bray, Worcester, MA
Kate Fokos, 10 Hatikva Way, North Chelmsford, MA

This meeting's intent was to file a formal decision with the Town Clerk regarding the application of Rose Russell for the properties located at 112 and 114 Thorndike Street, Dunstable, MA for a Special Permit to operate a home business for the purpose of conducting a horse boarding business.

Chairman, Wes Goss, called the meeting to order at 7:00 p.m., introduced the members and explained the hearing procedures. Lisa O'Connell read the public hearing notice as posted for the record. Mr. Goss asked the appellant to present her case.

Rose Russell presented a packet to the Board (see attached list of items in packet) for the record.

The Board briefly reviewed the documents presented by the petitioner.

Rose Russell stated that she has owned horses for 38 years. She also has many chickens and four dogs. She has been a volunteer to take in rescue horses since 2002 and approved by the Equine Rescue Association to do so.

Al Horton asked about the size of the lot.

Rose Russell said it was actually two contiguous lots. One is 10.6 acres and the other one is roughly 15 acres for a total of 26 acres. She has two wells on the properties.

Judy Thompson asked how many horses are on the property.

Rose Russell said that she has 15 horses.

Wes Goss asked if they all have their own stalls.

Rose Russell said, yes and can accommodate more.

Wes Goss asked how many horses could be accommodated.

Rose Russell said she has room for 20 horses.

Wes Goss asked if she has barns on the property.

Rose Russell said, yes.

Wes Goss asked if she had been in contact with the Department of Agriculture.

Rose Russell said, no.

Rose Russell gave a copy of a letter from Susan Gist-Miller for Lisa O'Connell to copy and add into the record. Ms. Russell had provided a pony party for her and her daughter.

Lisa O'Connell asked if they had employees.

Rose Russell said, none. The barn manager is only a title given to one of the boarding horse owners and there is no monetary compensation that accompanies it.

Judy Thompson asked about parking.

Rose Russell said that there is plenty. She has a long driveway and there is also space on both sides of the horse paddocks.

Alice Ekstrom asked if she kept any horses on the pasture.

Rose Russell said that she has 18 acres of open pasture. It is surrounded by an electric fence, which the horses have been trained to know the boundaries by walking them to the flags along the perimeter. They are only in the pasture to graze and then they are taken back to their stall. They are careful not to over-graze the pasture. They hay the field and use the manure to fertilize it. The McGovern's assist in the haying and she intends to keep the integrity of the field for these purposes.

Judy Thompson asked about the manure management.

Rose Russell said that they have hired WB Landscaping of Pepperell, MA to come in and compost some and distribute the rest in the fields, gardens and lawns. She said that she free ranges her chickens and that there is no odor or pile of manure that are noticeable. She keeps the area neat and clean.

Alice Ekstrom asked the petitioner to describe the type of flooring that is used in the stalls.

Rose Russell said that she has a stall mat in each stall that is made out of recycled tires that is specifically used for this purpose and then there are wood shavings placed on top. This allows them to maintain a neat and clean stall area.

Alice Ekstrom asked about the riding ring.

Rose Russell said that it is a riding ring and they have put down 2 to 3 inches of wood chips to cushion the ring and then ring sand is placed on top and then graded. There are drains so that it doesn't get muddy. The cushion is to protect the animals' legs and joints.

Peter Dumont said that he shares an easement with the petitioner and he has major concerns if a boarding facility is permitted. He has kids and they often play by their driveway. He said the traffic is intolerable; there is one car after another. He is concerned with the liability and continuous wear and tear on the road. He said that it is not wide enough or sufficient enough for the business. The volume of traffic has doubled in the area in the last few years. He said that there isn't room for 2 cars to pass each other. He submitted a copy of the easement contract for the record.

At 7:30 p.m. Alice Ekstrom motioned to continue the hearing after the next scheduled hearing was adjourned.

Al Horton seconded the motion and all were in favor. The meeting was adjourned temporarily.

At 7:50 p.m. Wes Goss reconvened the continued hearing.

Al Horton asked if this easement was shared by both parties.

Peter Dumont said, yes.

Alice Ekstrom asked if the easement was a road or a common driveway.

Peter Dumont said it was a private driveway.

Rose Russell said it was an approved driveway. There are pads periodically for the cars to pull over to let another pass. There are 2 pads along the driveway for the 3 lots. There is plenty of line of vision.

Kathy Dumont said that there wasn't a lot of room on the pad and that she almost got hit. The turn around is next to their home and that there are horse trailer, equipment and hay deliveries that use that turn around.

Wes Goss asked if the parties share in the repair of the driveway.

Peter Dumont said that both parties are responsible for maintenance, plowing, etc. It's the vehicles that are the problem, not the maintenance. They are an invasion of privacy.

Leonard Dumont said that the pads are supposed to be for the owners' use and not for passing. The driveway is 2,160 feet long.

Michael Udot said that the traffic on Thorndike travels up to 40 miles per hour and is in excess of the speed limit. He is concerned about the added traffic.

Dana Barnes said that there are currently not special permits for any of the buildings on the properties with the exception of the house. He has no idea if the barns meet the building code or adhere to the zoning by-laws. The trailers have been removed. There was a variance issued in 2001, but there is no proof that it was recorded.

Rose Russell said that the variance for the barn was recorded at the registry of deeds.

Judy Thompson asked if the barn in which the variance was given was ever built.

Rose Russell said no.

Al Horton reconfirmed that there was no barn built at that location.

Rose Russell said that they are lean-to's.

Wes Goss asked if she had a barn.

Rose Russell said not in that location, they are pole barns.

Dana Barnes said that she needs permits for the pole barns.

Kevin Bray, a plumber in Westford said that he has boarded horses at HRF since January. He said the barns are safe. His kids like the farm and they have made friendships. In his time there he has never had to pass a car going the other way on the driveway. He said that the current traffic is all that's going to be. There won't be any more than that. He said that he has seen noisy snowmobiles in the neighbor's front yard. He said that this is a situation of disgruntled abutters and it wasn't fair to hold Rose accountable.

Josh West asked if the structures are compliant.

Dana Barnes said that he didn't know. He hasn't inspected them or seen any plans.

Kate Fokos said that she also boards horses at HRF. There are four families including the Russell's that account for the 15 horses currently boarded on the properties. The families go up once a day to take care of their horses. There is a set schedule. She said the Russell's are good people.

Kathy Dumont said that Rose Russell is a good neighbor, but they would like to live their lives without seeing all the traffic in the driveway. She said that there have been incidences of loose horses on her property and it's an invasion of privacy.

Michael Udot said he is concerned with possible expansion to total 20 horses as there are only 15 horses now. There is a potential for an increase in boarders.

Judy Thompson asked what was boarded before the closing of the other stable in Westford that was mentioned in the documentation that resulted in the families boarding their horses at the HRF farm. And will the Russell's continue boarding horses for this group only or continue with new boarders as well.

Rose Russell said that she has invested a lot in the properties and would like to see her son take over some day. She has a signed conservation agreement with the town.

Judy Thompson asked if she would agree to a condition for a lower capacity of boarders.

Rose Russell said that she has lost a horse and doesn't know if she will get more, but would not want to commit to a set number of horses.

Jim Russell said that Peter Dumont has valid concerns for his children's safety, but that he hadn't heard any complaints until now. He has been there 6 or 7 years already and now they feel they are being blindsided by this complaint at the hearing. He wished the concerns were brought to their attention before now. He said that dogs, cows, bulls get loose. It's part of living in Dunstable. He apologized about the neglect to get the buildings approved by the code. He didn't know pole barns and lean-to's were subject to the new law and thought they were in compliance. He said he didn't know what the by law meant by stables for hire.

Rose Russell said that when they signed the conservation agreement, they sat down with Alan Chaney and promised never to develop the land. She assumed they could build any structure for a farm animal or that was agriculturally related. She said that she has seen 4-wheelers with trailers and snowmobiles and misinterpreted the agreement.

Dana Barnes said that there are 2 other stables. The by law has been in effect since 1987 and is not new. He said that there are at least 3 or 4 stables for hire in town before them.

Wes Goss said that he would like to call Town Counsel regarding the easement and the information from the building inspector.

Kathy Dumont said that they are very open to some kind of resolution.

Al Horton asked how the board could vote to deny or grant the special permit if the petitioners were not in compliance with the other building laws and codes. He would like to know the procedure the board should take.

Dana Barnes said that he would like to see the plans of the pole barns and excavate the poles to see their depth.

Josh West said that he thought they should continue the hearing to see what the discovery needs to be.

Kevin Bray asked if the building inspector would need to excavate every pole.

Dana Barnes said, yes.

Kevin Bray thought that the excavation might compromise the integrity of the pole barns.

Wes Goss asked if the board could get a copy of the conservation agreement.

Rose Russell said, yes.

Lisa O'Connell said that the board should get a list of what needs to be permitted by the building inspector.

Dana Barnes said that he would complete an inspection first.

Pete Dumont asked if an alternate travel route could be explored.

Al Horton asked what lot number the Dumont's owned.

Peter Dumont said that they lived on lot 2 and lot 3 was for leaching.

Al Horton motioned to continue the hearing until Thursday, October 4, 2007 at 7:00 pm. Joshua West seconded the motion and all were in favor. The meeting was adjourned at 8:35 pm.